IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 24564 of 2004

Between:

N.Hanumaiah s/o Hanumantharao
R/o 4th Line, Siddharthnagar Guntur.

..... PETITIONER

AND

1 The Executive Engineer (R&B) R & B Divisional
Tenali, Guntur district
2 The chief Engineer R &B Roads, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other writ, order or direction in the nature of a writ, declaring the letter No.1751/A3/2003, dt. 25/11/2004 of the 1st respondent proposing to take over the toll gate of 3/8 of Bapatla -Vellatur road for the alleged disputed dues with respect to the toll gates operated by the petitioner earlier as arbitrary, illegal and without jurisdiction and consequently to restrain the respondents from doing so.

Counsel for the Petitioner:MR.G.PEDDA BABU

Counsel for the Respondent Nos.1 and 2: GP FOR ROADS & BUILDINGS

The Court at the admission stage made the following O R D E R:

Petitioner states that he was given licence for the right to collect toll tax for the bridge across Nallamade Drain at KM. 3/8 of Bapatla-Velluturu road in Guntur District from 01.08.2003 to 31.03.2005 for Rs.30,56,555/-. The first respondent, through impugned letter dated 25.11.2004, directed the petitioner to pay pending toll gate amount of Rs.14.65 lakhs, failing which, the toll gate will be taken over by the department from 30.11.2004. Challenging the same, the petitioner filed the present writ petition.

Learned counsel for the petitioner contends that insofar as present toll gate is concerned, no amount is due to the department and, hence, he prays to quash the impugned letter.

Learned Government Pleader for Roads and Buildings contended that the petitioner fell due to the department an amount of Rs.14.65 lakhs and, therefore, he prays to direct the petitioner to pay the pending toll gate amount.

In the counter affidavit filed by the respondents, it is not stated anywhere that the said amount was due to the department insofar as present toll gate is concerned. A copy of the agreement entered into between the petitioner and respondent-Corporation is made available to this Court, which does not state that in the absence of payment of previous dues, respondents can take action. There cannot be any dispute that the petitioner and the respondent-Corporation are bound by the terms and conditions of the deed of licence executed on 01.08.2003. Since the first respondent issued the impugned letter contrary to the terms and conditions of the agreement dated 01.08.2003, writ petition is allowed setting aside the impugned letter dated 25.11.2004. However, it is left open to respondents to recover the arrears

due if any in accordance with law.

Accordingly, the writ petition is allowed. No order as to costs.

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(K.C.BHANU,J)

Dt:22.03.2005

usd

To

1 The Executive Engineer (R&B) R & B Divisional
Tenali, Guntur district
2 The chief Engineer R &B Roads, Hyderabad.

3 Two CCs to G.P. for Roads and Buildings, High court of A.P.,

Hyderabad (OUT)

4 Two CD copies.